

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GREGORY PAPAZIAN,
Plaintiff,

- against -

SONY MUSIC ENTERTAINMENT
Defendant.

Docket No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Gregory Papazian (“Papazian” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Sony Music Entertainment (“Sony” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a photograph of legendary musician Rory Gallagher, owned and registered by Papazian, a Los Angeles based photojournalist. Accordingly, Papazian seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or are doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Papazian is a legendary rock and roll professional photographer in the business of licensing his photographs to online, print, and television stations for a fee, having a usual place of business at 13716 Ventura Blvd. Sherman Oaks, CA 91423. Papazian has photographed many of the best musicians including but not limited to Led Zeppelin, Rod Stewart, Chuck Berry, and The Rolling Stones. Papazian owns a Fine Art Gallery in Los Angeles where he showcases his photographs.

6. Upon information and belief, Sony is a corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 25 Madison Avenue, New York, New York 10011. At all times material hereto, Sony has created the albums called *Big Guns: The Very Best of Rory Gallagher limited edition* and *Big Guns: The Very Best of Rory Gallagher Super Audio CD* (the “Albums”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Papazian photographed musician Rory Gallagher (the “Photograph”).
8. Papazian is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.
9. The Photograph is registered with the United States Copyright Office and was given US Copyright number of VAu 847-351.

B. Defendant’s Infringing Activities

10. Upon information and belief, Sony created the the music albums *Big Guns: The Very Best of Rory Gallagher-Limited Edition* and *Big Guns: The Very Best of Rory Gallagher-Limited Edition Super Audio CD*. The inside of the Albums prominently featured the

Photograph. True and correct copies of the Albums with the Photograph is attached hereto as Exhibit A.

11. Sony did not license the Photograph from Plaintiff for the Albums, nor did Sony have Plaintiff's permission or consent to publish the Photograph in its Albums.

FIRST CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST SONY)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Sony infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph in the Albums. Sony is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Sony have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

18. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Sony be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded either a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 1203(b);
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
October 10, 2016

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